



# NEW HAMPSHIRE

## Data Privacy Act

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*Please note this is a highlighted overview and not a complete overview of privacy laws for this state. If you would like a complete review of this state's privacy laws or a multi-state privacy compliance cheat sheet on specific topics, please contact Vivien Peaden at [vpeaden@bakerdonelson.com](mailto:vpeaden@bakerdonelson.com).*

*Disclaimer: These materials do not constitute legal advice and should not be substituted for the advice of legal counsel.*

# The New Hampshire Data Privacy Act (NHDPA)

**Effective Date:** January 1, 2025

1. **Applicability Thresholds:** Subject to certain entity-level and data-level exemptions, the NHDPA applies to an individual or legal entity conducting business in New Hampshire or producing products or services targeted to New Hampshire residents (**consumers**), and, during a one-year period, controlling or processing either:



**35,000+** NH consumers' personal data (**excluding** personal data solely for the completion of payment transactions);

or



**10,000+** NH consumers' personal data and derive more than **25 percent of its revenue** from the sale of personal data.

2. **Key Definitions:**



**Sales of Personal Data:** Similar to California, "sale of personal data" is broadly defined to include the exchange of personal data for not only monetary compensation but also "**other valuable consideration**," subject to certain exemptions.

3. **Business Obligations:** The NHDPA imposes additional obligations on persons who, alone or jointly with others, determine the purpose and means of processing personal information (**Controller**):



**Heightened Protection for Minor Under the Age of 16:** Teenagers who are at least 13 but younger than 16 years of age and children under the age of 13 are afforded heightened protection under the NHDPA.



**Data Processing Agreement (DPA):** Processing activities by a third party on the Controller's behalf (**Processor**) shall be governed by a DPA between the Controller and Processor.



**Data Protection Assessment.** Yes, where processing activities present a heightened risk of harm to consumers, including targeted advertising, sales of personal data, high-risk profiling activities, and processing of sensitive data.

- Note that the requirements for data protection assessment apply to "processing activities created or generated **after July 1, 2024**, and are not retroactive."



**Privacy Notice:** Yes, a Controller must provide consumers with a privacy notice that is reasonably accessible, clear, meaningful, and discloses categories of information processed, and the purpose of processing, among others.



**Data Minimization and Purpose Limitation of Data Processing:** A Controller shall: (i) limit the collection of personal data to what is "adequate, relevant, and reasonably necessary"; and (ii) process personal data for purposes that are compatible with the original purpose of data collection.



**Universal Opt-out Mechanism:** Effective January 1, 2025, a Controller must allow a consumer to opt out of any personal data processing for targeted advertising, or any personal data sales, by sending the Controller an "opt-out preference signal...by a platform, technology, or mechanism...indicating such consumer's intent to opt-out of any such processing or sale."

4. **Consumer Rights:** Subject to certain exceptions, a New Hampshire consumer has the right to:



**Confirm** whether a Controller is processing their personal data, and **access** the categories of data being processed;



**Correct** inaccuracies in the consumer's personal data;



**Delete** personal data provided by, or obtained about, the consumer;



**Obtain** a copy of their personal data processed by the Controller; and



**Opt-out** of data processing for targeted advertising, sales of personal data, and profiling for solely automated decisions producing legal or similarly significant effects.

## 5. **Enforcement and Penalties:**



**Private Right of Action:** None.



### **Penalties:**

- Up to \$10,000 per violation in civil penalties.
- Up to \$100,000 per violation for criminal penalties of up to \$100,000 if there is sufficient evidence that a business is purposely failing to comply with the requirements of NHDPA.



**Cure Period:** 60-day cure period following receipt of the notice of violation by the New Hampshire attorney general. This grace period is only available until **December 31, 2025**.